

REMARKS

Reconsideration is respectfully requested in view of the foregoing amendments and the following remarks. But this amendment claims 50-52, 58, 59, 62-64 and 66-70 have been amended. The amendments to these claims are fully supported in the as-filed specification.

The Examiner erroneously checked both “non-final” and “final” on the Office Action Summary. Clearly, this was a non-final action since it follows an RCE.

The claims which are presently pending are 50-70; inclusive.

Claims 50-65 have been objected to because of certain informalities. These objections are respectfully traversed.

In claim 50 the word “containing” at line 2 has been replaced by the phrase - - wherein said cell wall contains- -.

In claim 51, line 3, the following phrase “external cell membrane of the microorganism” has been deleted.

In claim 58, line 3 after the word “substance” applicants have inserted - -that is- -.

In claim 62, line 3 - -0.025 M- - has been inserted before the phrase “sodium citrate”.

At claim 63, line 2 the phrase - -0.025 M- - has been inserted before the phrase “sodium citrate”.

At claim 64, line 1 “,” has been inserted after the number “50” and deleted after the word “wherein”.

Each instance of the occurrence of the word “microorganism” in the claims has been cancelled and the word - - Saccharomyces - - has been inserted.

Accordingly, since the objections to the claims have been overcome, their withdrawal is solicited.

Claims 50-70 stand rejected under 35 USC §112, first paragraph. This rejection is respectfully traversed.

It is respectfully submitted that by the amendment of the claims to recite -- *Saccharomyces*--in lieu of “microorganism”, the §112, first paragraph, rejection has now been overcome, as will be pointed out hereafter.

In fact, *Saccharomyces* represents a genus characterized by a homogeneous cellular morphology as the strains are unicellular, globose and ellipsoid to elongate in shape, with multilateral budding.

They produce ascospores, located in asci; when stained with Gram stain, ascospores are gram-positive while vegetative cells are gram-negative. An article by Marinoni et al., published in 1999 (the year of filing of the present Application), copy enclosed, confirms that different strains within the genus can freely transfer genetic material and are, therefore, closely related to each other. (An IDS is enclosed).

From a nutritional point of view, a typical characteristic of the *Saccharomyces* genus is its inability to utilize nitrate and the ability to ferment various carbohydrates, which is the reason why they are used in the food industry in fermentation processes.

Therefore, it can be strongly argued that *S. cerevisiae* is representative of the *Saccharomyces* genus, besides being the most studied strain within the genus and among yeasts in general.


As a consequence, the reference to the genus "*Saccharomyces*" should be considered as being fully supported by the specific examples carried out with the particular strain *S. cerevisiae*.

In view of the above, the §112 rejection has been overcome and should be withdrawn.

The issuance of a Notice of Allowance is respectfully solicited.

Please charge any fees which may be due to our Deposit Account No. 01-0035.

Respectfully submitted,


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